

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 11-15 were pending in this application when last examined and stand rejected.

Claims 11-15 have been canceled without prejudice or disclaimer and replaced with new claims 16-25. Applicants reserve the right to file a continuation or divisional application on any canceled subject matter.

New independent claim 16 corresponds to previous claim 11 and incorporates the substance of original claims 1, 7 and 8. Support can also be found in the disclosure, for example, at page 3, line 30 to page 4, lines 4-14, page 5, lines 14-17, page 7, lines 11-12, and page 15, lines 3-28 and at least in Figures 1 and 4. It is noted that new claims 17-25 depend, either directly or indirectly, on claim 16.

New claim 17 corresponds to previous claim 12. Further support can be found, in the disclosure, for example, at page 5, lines 7-13, page 7, lines 9-12, Figure 4, page 15, lines 3-25, and in original claim 2.

New claims 18 and 19 correspond to previous claim 14. Further support can be found, in the disclosure, for example, at page 5, lines 20-24, and in original claim 4.

Support for new claim 20 can be found, in the disclosure, for example, at page 16, lines 14-29, and in original claim 8.

Support for new claims 21-26 can be found, for example, at page 4, lines 10-14, and in original claim 9.

No new matter has been added by the above amendments.

Claims 16-25 are pending upon entry of this amendment.

It is believed that the amended claims do not present any new issues for consideration and/or search as they incorporate subject matter already considered by the Examiner in the last Office Action. Accordingly, if the next Office Action on the merits includes a new rejection of one or more claims, the Action must be non-final.

Applicants thank the Examiner for the careful examination of this case and respectfully request reexamination and reconsideration of the case, as amended. Below Applicants address the rejections in the Office Action and explain why the rejections are not applicable to the pending claims as amended.

II. PRIOR ART REJECTION

Claims 11-15 were newly rejected under 35 U.S.C. § 102(e) as allegedly anticipated by KOBASHIKAWA (US 7,023,104) for the reason on page 2 of the Office Action.

This rejection is respectfully traversed.

To start, Applicants note the subject matter of KOBASHIKAWA (US 7,023,104) differs substantially from that of provisional application 60/395,359 (to which it claims priority). More importantly, the subject matter relied upon by the Office in making the rejection is not supported by the provisional application 60/395,359. As such, the Office cannot rely on the July 11, 2002 filing date of 60/395,359. Instead, the Office can only rely on the filing date of July 9, 2003 for KOBASHIKAWA (US 7,023,104).

However, the disclosure of the Finnish priority application (20030635), to which the instant application is based, has an earlier priority date of April 25, 2003, which precedes the July 9, 2003 filing date of KOBASHIKAWA (US 7,023,104) for the subject matter relied upon by the Office. It should be noted that the Office has already acknowledged Applicants' priority claim, as well as receipt of the certified priority documents in item 12(a)1 of the Office Action Summary of November 15, 2007. For these reasons, it is believed that the rejection must fall as KOBASHIKAWA is not available as prior art against the instant application.

In support thereof, Applicants present below a review of the content of provisional application 60/395,359.

In 60/395,359, the pictures and description illustrate only devices with only one production unit. Production installations with multiple units are discussed very briefly and

in a general level on the last page of the specification. However, 60/395,359 fails to provide either pictures or a description of multi-device installations. Nor does the provisional application describe their structure, function or location on the sea bed as required in the installation of claim 16. It seems that such subject matter was added after the filing of the provisional application. As consequence, 60/395,359 fails to disclose or suggest each and every element of independent claim 16 and thus the filing date of 60/395,359 cannot be relied on.

Additionally, the only use of the device described in 60/395,359 is for a desalination process with reverse osmosis, nothing has been said for example of production of electricity. This stands in contrast to the production installation of independent claim 16, which is designed for and intended to utilize wave energy. Specifically, claim 16 states "production units transform kinetic energy of reciprocating movement of the water mass into electric energy, said electric energy is transferred by wire or cable to a point of application."

Further, 60/395,359 lacks a description of the structure of such an installation device or its location on a sea bottom. In fact, there is no indication that the production units are attached to the sea bottom at all. This also stands in contrast to claim 16, which states "each said production unit is attached directly or indirectly to the bottom (P) of the water

basin at an intermediate water region (B) to a depth deeper than the wave breaking line, approximately in an area where a ratio of the depth of the water basin (H) to the wavelength (L) is in a range of 1/20 to 1/2."

Furthermore, in the last paragraph on page one of the specification of 60/395,359, it is indicated that the "panel is extended upward, toward the sea surface". Based on this description, it seems to Applicants that at least the movable panel of 60/395,359 can be extended to the sea level exposing itself to harsh environments. This means the device is not totally submerged under water. This contradicts claim 16, which states "each said production unit is completely submerged under the surface of the water".

In the Office Action, the Examiner offered KOBASHIKAWA (US 7,023,104) as disclosing many units mounted in parallel and specific reference was made to pictures 5 and 9 thereon. It is believed that these pictures and their corresponding description are all later insertions, as they are not supported in 60/395,359.

Also, the Examiner refers to the abstract of KOBASHIKAWA (US 7,023,104) as disclosing that the base of the motor is attached to the base of the water basin. However, again, there is no support for attaching the motor onto the seabed in 60/395,359. It seems that this description was also added in KOBASHIKAWA (US 7,023,104).

In summary, claim 16 requires a production installation with at least two production units, each capable of transforming kinetic energy of the reciprocating movement of water mass into electric energy. This electric energy is transferred via wires or cables into the point of application. Additionally, each said production unit has transfer equipments for transferring the energy from the production units. They are all connected in series or parallel in relation to each other. Furthermore, some parts or all the transfer equipments of the energy of the production installation are immovably attached to the bases.

As can be seen, in claim 16, the production installation, its location and structure, and also location and structure of energy transfer equipments have been defined exactly. In 60/395,359, nothing exact has been said of structural requirements of multiple units.

Additionally, in claim 16, all production units are submerged under water surface and attached to the bottom (P) of the water basin in a very specific area. As discussed above, it is unclear if the device described in 60/395,359 would be attached to the bottom of the sea bed at all, as there is no disclosure of such. Further, there indications that these devices in 60/395,359 are not submerged under the sea level in their entirety.

Also, the only use of the device described in the 60/395,359 is for salination of sea water. This use is completely different and far removed from the production of electricity.

Therefore, Applicants believe that the Office cannot rely on the filing date of 60/395,359, as this provisional application does not support, disclose or otherwise suggest each and every element of claim 16. The present application has an earlier priority day than KOBASHIKAWA (US 7,023,104) for the above-noted subject matter. Thus, the rejection must fall, because KOBASHIKAWA (US 7,023,104) is not available as prior art against the subject matter of claim 16 of the application.

For these reasons, it is believed that the anticipation rejection over KOBASHIKAWA (US 7,023,104) should be withdrawn.

III. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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